

AMENDED IN ASSEMBLY MAY 6, 1999

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1287**

**Introduced by Assembly Member Davis**

February 26, 1999

---

---

An act to amend Sections 658.3 and 668.1 of, and to repeal ~~and add~~, *add*, and *repeal* Section 658.6 of, the Harbors and Navigation Code, relating to vessels, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1287, as amended, Davis. Operation of vessels: boating safety courses.

(1) Existing law prohibits a person from operating a motorboat, sailboat, or vessel that is 26 feet or less in length unless every person who is 6 years of age or younger is wearing a type I, II, or III Coast Guard-approved personal flotation device, or unless the person is operating a sailboat on which the person who is 6 years of age or younger is restrained, as provided, or the person is operating a vessel on which the person who is 6 years of age or younger is in an enclosed cabin.

This bill would make those requirements that currently apply to a person who is 6 years of age or younger, instead, apply to a person who is 11 years of age or younger, and would require the flotation device to be a type I, II, III, or V Coast Guard-approved personal flotation device. The bill would also

require any person aboard a personal watercraft or any person being towed behind a vessel on water skis, an aquaplane, or similar device to wear a type I, II, III, or V Coast Guard-approved personal flotation device, except as provided. Because other existing law makes a violation of these requirements a crime, the bill would impose a state-mandated local program.

(2) Under existing law, the Department of Boating and Waterways was required to report to the Legislature, by October 1, 1998, on its recommendations for enhancement and expansion of boating safety and education. Existing law required the Director of Boating and Waterways, by February 1, 1998, to appoint a Boating and Safety Advisory Committee.

This bill would repeal those provisions. The bill would require the department, on or before ~~June 1~~ *December 31*, 2000, to develop and make available to all interested parties, a model ~~curriculum~~ *educational course* for the instruction of recreational boaters in safe boating principles and regulations. *The bill would require the director to appoint a Boating Safety Advisory Committee on or before February 1, 2000, to advise the director in the development of the model program.* The bill would require the department to develop a written test, on or before January 1, 2002, to test persons on their knowledge and understanding of the ~~curriculum~~ *model educational course* and would provide for the issuance of a Class A or B certificate, as provided, to any person who successfully passes the test.

The bill would provide that beginning September 1, 2002, no person under the age of 21, except as specified, may operate a vessel powered by a motor of greater than 15 horsepower upon the waters of the state unless the person has successfully passed the test and has a valid certificate, as provided. The bill would make that prohibition applicable to persons under the age of 31 beginning June 1, 2003, to persons under the age of 41 beginning June 1, 2004, and to all persons *born on or after January 1, 1960*, beginning June 1, 2005. The bill would make any person who violates those provisions guilty of an infraction, thereby imposing a state-mandated local program. *The bill would require the department to conduct a study to determine the effect of the program.*



*These provisions would be repealed on January 1, 2011.*

(3) Existing law provides that any person convicted of specified provisions of existing law governing the operation of vessels may be ordered by the court to complete and pass a boating safety course approved by the department, when the conviction resulted from the unlawful operation of a vessel.

This bill would require, rather than permit, the person to be ordered by the court to complete and pass the course.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) *The bill would appropriate \$200,000 from the Harbors and Watercraft Revolving Fund to the department for specified purposes, which would be reimbursed as prescribed.*

Vote: ~~majority~~ <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited  
2 as the California Boating and Safety Act.

3 SEC. 2. Section 658.3 of the Harbors and Navigation  
4 Code is amended to read:

5 658.3. (a) No person shall operate a motorboat,  
6 sailboat, or vessel that is 26 feet or less in length unless  
7 every person on board who is 11 years of age or less is  
8 wearing a type I, II, III, or V Coast Guard-approved  
9 personal flotation device while that motorboat, sailboat,  
10 or vessel is underway.

11 (b) Subdivision (a) does not apply to a person  
12 operating a sailboat on which a person who is 11 years of  
13 age or less is restrained by a harness tethered to the vessel,  
14 or to a person operating a vessel on which a person who  
15 is 11 years of age or less is in an enclosed cabin.

16 (c) Any person on board a personal watercraft or any  
17 person being towed behind a vessel on water skis, an  
18 aquaplane, or similar device shall wear a type I, II, III, or



1 V Coast Guard-approved personal flotation device, unless  
2 that person is described in paragraph (1), (2), or (3) of  
3 subdivision (c) of Section 658.5.

4 (d) Subdivision (a) and (c) do not apply to a person  
5 operating a motorboat, sailboat, or vessel if the operator  
6 is reacting to an emergency rescue situation.

7 (e) The following definitions govern the construction  
8 of this section:

9 (1) "Enclosed cabin" means a space on board a vessel  
10 that is surrounded by bulkheads and covered by a roof.

11 (2) "Operate a motorboat, sailboat, or vessel" means to  
12 be in control or in charge of a motorboat, sailboat, or  
13 vessel while it is underway.

14 (3) "Underway" means all times except when the  
15 motorboat, sailboat, or vessel is anchored, moored, or  
16 aground.

17 (f) A violation of this section is an infraction  
18 punishable as provided in subdivision (a) of Section 668.

19 SEC. 3. Section 658.6 of the Harbors and Navigation  
20 Code is repealed.

21 SEC. 4. Section 658.6 is added to the Harbors and  
22 Navigation Code, to read:

23 658.6. (a) On or before ~~June 1~~ *December 31, 2000*, the  
24 department shall develop and make available to all  
25 interested parties ~~a model curriculum for the instruction~~  
26 ~~of recreational boaters~~ *a model educational course* in safe  
27 boating principles and regulations. *Except as otherwise*  
28 *provided by law, no person shall be required to take the*  
29 *course. The curriculum model educational course shall*  
30 *not be designed or intended to instruct participants on*  
31 *how to operate any particular type of boat, but rather*  
32 *shall be designed to instruct participants on safe boating*  
33 *principles and laws that apply to all boaters. In addition,*  
34 *the model educational course shall include methods*  
35 *boaters can employ to help protect the environment. To*  
36 *the greatest degree practicable, the curriculum model*  
37 *educational course shall be designed to ensure reciprocity*  
38 *with similar programs in other states. To advise the*  
39 *director in development of the model educational course,*  
40 *the director, on or before February 1, 2000, shall appoint*



1 a Boating Safety Advisory Committee, which shall  
2 include, but need not be limited to, boat owners;  
3 representatives of the Boating and Waterways  
4 Commission; boating law enforcement agencies; the  
5 United States Power Squadron; the United States Coast  
6 Guard Auxiliary; entities that provide boating education  
7 courses; personal watercraft organizations; boat dealers  
8 and yacht brokers; boating, sailing, and yachting  
9 organizations; owners and operators of public and private  
10 marina facilities; boat rental operators; lifeguards and  
11 harbormasters; and boating accident victims.

12 (b) On or before January 1, 2002, the department shall  
13 develop a written test to test persons on their knowledge  
14 and understanding of the ~~curriculum~~ model educational  
15 course described in subdivision (a). The department shall  
16 determine an appropriate passing grade for the test. A  
17 wallet-sized certificate shall be issued to any person who  
18 successfully passes the test. *The test may be administered*  
19 *by any person who is 18 years of age or older and who is*  
20 *specifically designated by the department including, but*  
21 *not necessarily limited to, a rental agent, boat dealer,*  
22 *yacht club official, yacht broker, marina operator, or a*  
23 *marine dealer. A person authorized to administer the test*  
24 *shall keep adequate records, as specified by the*  
25 *department, which the department may inspect at any*  
26 *time to ensure compliance. The department may revoke*  
27 *the right to administer tests for good cause. There shall be*  
28 *no less than one location available for testing in each*  
29 *county. Testing locations shall be designated in a manner*  
30 *intended to make them as convenient as possible to the*  
31 *maximum number of persons. Two classes of certificates*  
32 *shall be issued as follows:*

33 (1) A Class A certificate shall be primarily intended for  
34 a resident of the state or a regular visitor, but shall be  
35 available to any person. A Class A certificate shall be  
36 issued by the department and shall be valid for the life of  
37 the recipient on any waterway within the state. ~~Testing~~  
38 ~~for a Class A certificate shall be proctored by persons~~  
39 ~~specifically designated by the department. There shall be~~  
40 ~~no less than one location available for testing in each~~



1 county. Testing locations shall be designated in a manner  
2 intended to make them as convenient as possible to the  
3 maximum number of persons. The department shall *The*  
4 *department shall* develop a statewide database,  
5 accessible to law enforcement officers, of persons who  
6 successfully pass the test and who have been issued a Class  
7 A certificate.

8 (2) A Class B certificate shall be primarily intended for  
9 a boat renter or short-term visitor, but shall be available  
10 to any person. A Class B certificate may be issued by any  
11 person who is 18 years of age or older and who is  
12 specifically designated by the department to administer  
13 the test and issue the certificate, including, but not  
14 limited to, a rental agent, boat dealer, yacht club official,  
15 or any other person designated by the department. A  
16 person designated under this paragraph to administer the  
17 test shall be authorized to conduct testing onsite at his or  
18 her facility. A Class B certificate shall be valid for no more  
19 than 14 consecutive days and shall allow for operation  
20 only of vessels specified, and only upon waters  
21 designated, on the certificate. A person authorized to  
22 administer the test shall keep adequate records, as  
23 specified by the department, that the department may  
24 inspect at any time to ensure compliance. The  
25 department may revoke the right to administer tests and  
26 issue Class B certificates for good cause. Prior to  
27 developing the requirements for a Class B certificate, the  
28 department shall solicit comments from interested  
29 parties for a period of not less than 30 days.

30 (e) On or before January 1, 2002, the department shall  
31 review boater education programs developed in other  
32 states pursuant to mandatory boater education  
33 requirements and shall determine which of those  
34 programs meet standards substantially equivalent to the  
35 requirements of subdivisions (a) and (b). The  
36 department shall maintain an updated public database  
37 that lists those programs. *designated, on the certificate.*

38 (c) *On or before January 1, 2002, the department shall*  
39 *devise a system to determine the boater educational*  
40 *programs accepted under mandatory boater education*



1 *programs in other states that meet standards substantially*  
2 *equivalent to the requirements of subdivisions (a) and*  
3 *(b) and shall maintain an updated public data base*  
4 *thereof.*

5 (d) (1) Except as provided in paragraph (5),  
6 commencing September 1, 2002, no person under the age  
7 of 21 may operate a vessel powered by a motor of greater  
8 than 15 horsepower upon the waters of the state, unless  
9 that person has successfully passed the test referenced in  
10 subdivision (b) and has, upon that person, or aboard the  
11 vessel being operated, a valid certificate as specified in  
12 subdivision (b).

13 (2) Commencing June 1, 2003, paragraph (1) shall  
14 apply to any person under the age of 31.

15 (3) Commencing June 1, 2004, paragraph (1) shall  
16 apply to any person under the age of 41.

17 (4) Commencing June 1, 2005, paragraph (1) shall  
18 apply to all persons *born on or after January 1, 1960.*

19 (5) This subdivision does not apply to any person who  
20 is not a resident of California if that person has met the  
21 requirements of a boater safety education program listed  
22 by the department pursuant to subdivision (c) and has  
23 proof of meeting that requirement *aboard the vessel*  
24 *being operated* in a form prescribed by the department.

25 (6) *This subdivision does not apply to any person who*  
26 *holds a valid master's, mate's, or operator's license issued*  
27 *by the United States Coast Guard or to any person*  
28 *exempted by regulation of the department or to any*  
29 *person who holds a for-hire vessel operator license issued*  
30 *by the department, as long as the person has evidence*  
31 *thereof in a manner prescribed by the department*  
32 *aboard the vessel being operated. Any person so qualified*  
33 *may request and be issued a Class A certificate at the*  
34 *normal cost without the need to submit the testing and*  
35 *may display this certificate as evidence of compliance.*

36 (e) Any person who violates subdivision (d) is guilty  
37 of an infraction punishable by a fine of not more than fifty  
38 dollars (\$50) and shall be required to take a course,  
39 approved by the department, that meets the curriculum  
40 requirements of subdivision (b).



1 (f) The department may ~~charge a fee to each person~~  
2 ~~who is issued~~ *establish the cost to issue* a certificate  
3 pursuant to subdivision (b) *and may recover that cost*  
4 *from any person who is issued a certificate.* The ~~fee cost~~  
5 *for issuance of a certificate* shall be no more than the cost,  
6 on a prorated basis, to implement the requirements of  
7 this section, not to exceed ten dollars (\$10). However, the  
8 *fee amount recovered from any person who is issued a*  
9 *certificate that covers the cost for issuance of the*  
10 *certificate* may be adjusted annually, commencing  
11 January 1, 2001, to reflect changes in the consumer price  
12 index and may exceed ten dollars (\$10) upon the  
13 adjustment.

14 (g) The department shall adopt regulations to  
15 implement this section.

16 (h) Commencing January 1, ~~2004~~ 2003, the  
17 department shall include within its annual California  
18 Boating Safety Report an update on the progress of this  
19 program and its impact on boating safety. *In addition, the*  
20 *department shall conduct a study to determine the effect*  
21 *of the program on boating safety and on the*  
22 *boating-related economy. The boating safety portion of*  
23 *the study shall evaluate boating accident statistics in all*  
24 *the categories currently tracked and published in the*  
25 *department's annual California Boating Safety Report*  
26 *throughout the study period. The economic analysis*  
27 *portion of the study shall determine the impact of boating*  
28 *on the California economy and evaluate the effect of this*  
29 *program on that economic sector over the study period.*  
30 *The study shall include, for both sections of the study, an*  
31 *analysis of changes in statistical trends to determine the*  
32 *impact of the program. The study period shall commence*  
33 *on September 1, 2002, and conclude on August 31, 2009.*  
34 *Notwithstanding Section 7550.5 of the Government*  
35 *Code, the report shall be completed and submitted to the*  
36 *Legislature and the Secretary of the Resources Agency no*  
37 *later than December 31, 2009.*

38 (i) *This section shall remain in effect only until*  
39 *January 1, 2011, and as of that date is repealed, unless a*



1 *later enacted statute that is enacted before January 1,*  
2 *2011, deletes or extends that date.*

3 SEC. 5. Section 668.1 of the Harbors and Navigation  
4 Code is amended to read:

5 668.1. (a) Any person convicted of a violation of  
6 subdivision (b), (c), (d), (e), or (f) of Section 655  
7 pertaining to a mechanically propelled vessel but not to  
8 manipulating any water skis, an aquaplane, or similar  
9 device, when the conviction resulted from the operation  
10 of a vessel, shall be ordered by the court to complete and  
11 pass a boating safety course approved by the department.

12 (b) Any person convicted of a violation of subdivision  
13 (a) of Section 655 or of Section 655.2, 655.6, 658, or 658.5  
14 of this code, or Section 191.5 of the Penal Code, when the  
15 conviction resulted from the unlawful operation of a  
16 vessel, shall be ordered by the court to complete and pass  
17 a boating safety course approved by the department.

18 (c) Any person who has been ordered by the court to  
19 complete and pass a boating safety course pursuant to this  
20 section shall submit to the court proof of completion and  
21 passage of the course within seven months of the time of  
22 his or her conviction. The proof shall be in a form that has  
23 been approved by the department and that provides for  
24 the ability to submit the form to the court through the  
25 United States Postal Service. If the person who has been  
26 required to complete and pass a boating safety course is  
27 under 18 years of age, the court may require that the  
28 person obtain parental consent to enroll in the course. If  
29 the person does not complete and pass the boating safety  
30 course, the court may extend the period for completion  
31 or impose another penalty as prescribed by statute.

32 (d) The department shall adopt regulations to carry  
33 out this section, including approval of boating safety  
34 education courses, prescribing the forms for proof of  
35 completion and passage, and setting forth any fees to be  
36 charged to course participants, which fees shall not  
37 exceed the expenses associated with providing the  
38 course.

39 SEC. 6. No reimbursement is required by this act  
40 pursuant to Section 6 of Article XIII B of the California



1 Constitution because the only costs that may be incurred  
2 by a local agency or school district will be incurred  
3 because this act creates a new crime or infraction,  
4 eliminates a crime or infraction, or changes the penalty  
5 for a crime or infraction, within the meaning of Section  
6 17556 of the Government Code, or changes the definition  
7 of a crime within the meaning of Section 6 of Article  
8 XIII B of the California Constitution.

9 *SEC. 7. The sum of two hundred thousand dollars*  
10 *(\$200,000) is hereby appropriated from the Harbors and*  
11 *Watercraft Revolving Fund to the Department of*  
12 *Boating and Waterways to implement subdivision (h) of*  
13 *Section 658.6 of the Harbors and Navigation Code. The*  
14 *appropriation shall be fully reimbursed by the cost*  
15 *recovery process described in subdivision (f) of Section*  
16 *658.6 of the Harbors and Navigation Code.*

